

Applicant : Simon M. Furnish
Serial No. : 10/037,306
Filed : December 31, 2001
Page : 14 of 17

Attorney's Docket No.: 12258-0032001 / InfraReDx-14

Amendments to the Drawings:

Please replace the drawings on file with the attached replacement sheets.
The drawings have been amended as described in the Remarks below.

REMARKS

Amendments to specification

Applicant appreciates the close reading of the specification and the identification of errors. In response, Applicant proposes amendments to the specification for correcting the errors noted by the Examiner.

Claim amendments

Applicant notes with appreciation the indication of allowability of claims 33-38 and 41-48, as well as the indications of allowable subject matter in claims 2, 4, 5, 14-15, 17-19, 21, 31, and 32.

In response to Applicant's argument that the structure shown in *Zuluaga*'s FIG. 10 is nowhere near the distal tip of any catheter, the Office noted that "[t]he structure set forth in the claims does not require that the elements be present only in a tip portion of the catheter."

In response, Applicant proposes minor claim amendments to claims 1, 20, 39, 49, and 51 to specifically address the Examiner's objection to the rejected claims. These amendments clearly exclude *Zuluaga*'s device because in *Zuluaga*, the structure shown in FIG. 10, which the Office regards as an elongated housing, is completely outside the catheter.

Applicant appreciates the recognition of the typographical error in claim 6 and proposes an amendment to claim 6 to correct it.

The proposed amendments are addressed to matters of form pointed out in the office action and specifically address the remaining issues for placing the claims in condition for allowance. Accordingly, the amendments are proper under Rule 1.116.

Claim numbering

Applicant acknowledges the error in numbering claim 51. However, Applicant understands Rule 1.126 as requiring that the original numbering be preserved throughout prosecution, even if new claims were numbered in error. In an effort to establish a file history

consistent with the expectations of those who may one day inspect it, Applicant requests the Examiner's forbearance at correcting the claim numbering until such time as the patent is ready to issue.

Drawings

Applicant proposes amending FIG. 1 to include reference numeral "12". This is consistent with FIGS. 5A and 4B.

Applicant proposes amending FIG. 1 to label box 15 in a manner consistent with the specification at page 21.

Applicant proposes amending FIG. 5B to have "128" instead of "120" point to the end cap. This is consistent with FIG. 5A.

Applicant proposes amending FIG. 6(a) to include a reference numeral 170 and lead line directed to the counter-wound coils as disclosed on page 21 of the specification. The coils are not shown in FIGS. 6(b)-6(d). Accordingly, no amendment is required for those figures.

Applicant proposes amending FIG. 6(b) to conform to the specification at page 27 by including a reference 166 to the second bore.

Applicant proposes amending FIG. 7 to include reference numerals 194, 196 and lead lines pointing to the corresponding spaces between bosses 188, 190, 192 as described on page 29.

Applicant proposes amending FIGS. 9(a) and 9(b) to include reference numeral "L9" to label the light beams.

With regard to the objection based on Rule 1.83(a), Applicant notes that the "controlled analytical light generating source" and the "light collection analysis device" are not features of the claimed invention. Those structures are not positively recited claim elements.

Applicant : Simon M. Furnish
Serial No. : 10/037,306
Filed : December 31, 2001
Page : 17 of 17

Attorney's Docket No.: 12258-0032001 / InfraReDx-14

Conclusion

Now pending in this application are claims 1-43 and 45-51, of which claims 1, 20, 33, 39, 41, 39, and 51 are independent. No fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our Deposit Account No. 06-1050, referencing Attorney Docket No. 12258-0032001.

Respectfully submitted,

Date: _____

February 4, 2005



Faustino A. Lichauco
Reg. No. 41,942

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (877) 769-7945